97TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 97-543

IMPROVEMENTS TO ADMINISTRATIVE PROVISIONS FOR VETERANS' ADMINISTRATION NURSING PERSONNEL TO PROMOTE RECRUITMENT AND RETENTION OF NURSES, AND FOR OTHER PURPOSES

MAY 17, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 6350]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 6350) to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide that Veterans' Administration nurses who work two 12-hour regularly scheduled tours of duty over a weekend shall be considered to have worked a full basic workweek, and for other purposes, having considered the same, reports favorably thereon by unanimous voice vote without amendment and recommends that the bill do pass.

INTRODUCTION

The Subcommittee on Hospitals and Health Care held a hearing on March 17, 1982, on H.R. 5737, H.R. 5847, and H.R. 5846. Testimony was received from the Resident Commissioner of the Commonwealth of Puerto Rico, the Hon. Baltasar Corrada, the Delegate from the Virgin Islands, the Hon. Ron de Lugo, The American Legion, AMVETS, the Disabled American Veterans, the Paralyzed Veterans of America, the Veterans of Foreign Wars, and the Veterans' Administration.

On April 28, 1982, the Subcommittee unanimously recommended that H.R. 5737, to extend the expiring authorities of the Veterans' Administration to assist the several States in construction of State Home facilities for furnishing domiciliary or nursing home care to veterans and for other purposes, as amended, and H.R. 5847, to author-

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ize the Administrator of Veterans' Affairs to provide that Veterans' Administration nurses who work two 12-hour regularly scheduled tours of duty over a weekend shall be considered to have worked a full basic workweek, and for other purposes, as amended, be combined into a clean bill, H.R. 6286, and reported to the full Committee. The Subcommittee also unanimously recommended that H.R. 5846, to extend for 1 year the authority for the provision of Veterans' Administration health care in the Commonwealth of Puerto Rico and in the Virgin Islands, be reported to the full Committee.

On May 11, 1982, the full Committee, by unanimous voice vote, ordered reported H.R. 6350 in lieu of H.R. 5846 and H.R. 6286.

Background

The Veterans' Administration's Department of Medicine and Surgery (DM&S) continues to experience difficulties in recruiting and retaining sufficient nursing personnel to provide quality hospital care and medical services to eligible veterans. The Chief Medical Director has confirmed that an estimated 800 hospital beds were closed during 1981 in the VA's health care delivery system due to the acute shortage of nursing personnel. The major factor contributing to this nationwide shortage is the inability of DM&S to successfully compete with the private sector for nursing personnel. Difficulties in recruiting and retaining nurses in the future without the needed flexibility to provide personnel incentive plans will be exacerbated by the shortage of nurses in the private sector. The Department of Labor predicts that in 3 years there will be 240,000 nurse vacancies nationwide.

The private sector has many recruitment and retention incentive programs including:

—higher rates of pay;
—more rapid advancements;
—differential pay for special areas, e.g., intensive care units;
—employer paid life insurance and health insurance programs;
—higher rates for working uncommon tours of duty, such as nights and weekends;
—compressed workweeks;
—tuition reimbursement programs; and
—the "Baylor Plan" (i.e., nurses receive full-time pay for working 24 hours on a weekend—12 hours Saturday and 12 hours Sunday).

The Veterans' Administration does not have the flexibility to compete with private sector recruiting and retention incentives.

In order to provide the VA with some additional relief from its inability to compete with the private sector, the Congress enacted Public Law 96–330. This Act contained several nurse staffing incentives:

—*Section 111* added authority to pay higher competitive pay rates to nurses in geographic areas experiencing recruiting and retention difficulties;
—*Section 112* authorized the Administrator, for recruiting and retention purposes, to establish special higher salary rates and rate ranges in geographic areas in order to provide competitive pay, to achieve adequate staffing, or to recruit personnel, including nursing personnel, with specialized skills;

—*Section 118* required the VA to conduct a pilot program and a study on nurse recruitment and retention for a 24 to 36 month period in at least six geographic areas where the VA has experienced nurse staffing problems. The results of the study are to be reported to the Congress by February 1984.

Several provisions of current law impact on nurse hours of duty including:

—38 U.S.C., section 4108, which gives the Administrator wide authority to establish hours of duty, leave, and conditions of employment for nurses. VA policy currently requires that a full-time nurse be scheduled for a 40-hour basic workweek; and

—Section 4108 which also prescribes that any nurse or other title 38 employee engaged in permitted outside professional activities must work a minimum of 80 hours in a biweekly pay period.

The VA has taken several remedial actions to adjust basic pay for nurses. Among other things, the Chief Medical Director has:

(1) Established higher rates of pay at 72 medical centers. Based on a 4.8 percent Federal pay increase in October 1981, and nurse pay rate increases in the private sector averaging about 10 percent, the VA anticipates that 28 additional medical centers will require higher pay rates this year involving more than half of the centers in the VA system; and

(2) Authorized higher rate ranges for 16 medical centers for registered nurses.

The Veterans' Administration estimates that approximately 21 additional facilities, currently paying above-the-minimum rate, will meet the criteria established for special pay rate range applications during fiscal year 1982.

The major premium pay considerations for the VA are nurse overtime and the premium pay provisions contained in section 4107(e) of title 38, United States Code. These are generally similar to General Schedule employee pay considerations. Private sector nurse premium pay entitlements are different in many ways: For example, in many instances private sector nurse employers provide premium pay for weekend duty, whereas the VA may only provide premium pay for Sunday duty. More private sector nurse employers are establishing innovative arrangements of hours of duty and pay to attract nurses rather than continuing to engage in a "bidding war" for nurses through higher salary rates. Examples include:

—"*Baylor Plan*". This plan, originated by Baylor University Medical School, promotes employment of nurses during the difficult-to-staff weekend period by offering full-time pay for any nurses willing to work 24 hours on the weekend (i.e., a 12-hour tour on Saturday and a 12-hour tour on Sunday); and

—*Every Other Week Off*. Many employers are offering nurses (especially in special units such as intensive care) the opportunity to receive full-time pay and have every other week off. Under this arrangement, with full-time service defined as 35 hours a week, the nurse works seven 10-hour days one week and then is off duty the following week, thereby averaging 35 hours of service per week.

Testimony received at the March 17, 1982, hearing clearly demonstrated the VA's urgent need for additional personnel management flexibility in order to compete with the private sector for nursing personnel. Due to the limitations on the provision of premium pay and the lack of authority to utilize a salary rate and work schedule similar to the Baylor Plan, the VA is unable to successfully compete with the private sector.

Summary of the Reported Bill

H.R. 6350, as reported, would give the Administrator discretionary authority to pay premium pay for Saturday work not to exceed 25 percent of a nurse's hourly rate of basic pay. Authority currently exists for paying premium pay at the rate of 25 percent of the hourly rate of basic pay for tours of duty beginning midnight Saturday and ending midnight Sunday. Several witnesses, including the Director of the VA Nursing Service, indicated that the Agency's ability to recruit and retain registered nurses would be enhanced if it had the flexibility to pay premium pay for Saturday work.

H.R. 6350 would also give the Administrator discretionary authority to utilize a pay plan similar to the so-called Baylor Plan in any geographic location in which recruitment and retention of registered nurses are problems.

VA nurses provide nursing care to hospitalized veterans 24 hours a day, 7 days a week. The Director of the VA's Nursing Service testified before the Subcommittee on Hospitals and Health Care on the extent of VA nursing shortages and the urgent need for more flexibility in the provision of pay, particularly over weekends.

H.R. 6350 would grant the Administrator discretionary authority to exercise these options to enhance recruiting and retention of nurses to ensure essential nursing care to veteran patients between the hours of midnight Friday and midnight Sunday if he felt the need to do so. With such flexibility, the VA would be able to selectively provide directors of VA medical centers with the authority which would best assist in recruiting and retaining this critical category of personnel based on local employment conditions.

The Nurses Organization of the Veterans' Administration, in its legislative goals for 1981–82, reflected the desire of its members for the proposed changes. In a letter dated October 26, 1981, to the Chairman of the full Committee (Mr. Montgomery), the president of the organization, Mrs. Barbara Chambers, strongly urged the Committee to modify current law so that more pay incentives for nurses could be provided to help with critical nursing problems.

The reported bill would extend for 1 year the authority of the Administrator of Veterans' Affairs to waive the restrictions placed on the provision of hospital care and medical services to eligible veterans who are residents of the Commonwealth of Puerto Rico and the Virgin Islands. The loss of this authority would place an undue hardship on the VA to provide medical services in Puerto Rico and the Virgin Islands by limiting the service to the annually determined incidence of such care in the 48 contiguous States. The VA Medical Center in Puerto Rico cannot meet the demand for care in the area.

The Resident Commissioner of Puerto Rico, the Hon. Baltasar Corrada, appearing before the Subcommittee on Hospitals and Health Care on March 17, 1982, concerning the necessity for extending current law said:

> Mr. Chairman, it is a known fact that most veterans in Puerto Rico rely on the VA system for medical assistance and that their demand for care is higher than in any other place in the VA system.
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> In the VA's "Report to Congress on Health Care for Veterans in Puerto Rico and the Virgin Islands," four valid reasons are provided to explain this situation: (1) the rates at which acute conditions occur are higher in Puerto Rico than in the United States mainland, indicating a somewhat poorer health status than for U.S. veterans in general; (2) mental health problems occur at a higher rate in the case of veterans in Puerto Rico than in the VA system as a whole; (3) the average Puerto Rican veteran cannot afford fee-for-service care; and (4) the quantity of public health services provided by the Puerto Rican government is inadequate in relation to need.
>
> I may add that a major factor contributing to the last of these causes is that Medicaid applies in Puerto Rico on a very limited basis with the Federal Government providing only $45 million, while the Puerto Rican government provides over $120 million.
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> Thirty-four percent of our veterans in Puerto Rico come from families with an income below $7,000; 42 percent from families with an income between $7,000 to $14,000. So, this clearly shows that over 70 percent of our veterans come from low-income families. And only 24 percent come from families with incomes over $15,000.
>
> Even though the Puerto Rican government has annually increased its budget for health care services facilities, inflation brought about an actual decrease in buying power. Puerto Rico's financial condition precludes a massive investment in funds in this area and, therefore, no major improvements in the health care system can be made on a short term basis.
>
> Currently, in the non-VA sector of health care, there are fewer beds per 1,000 inhabitants in Puerto Rico than in the U.S. mainland, which, of course, is one of the reasons why there is a larger demand for veterans in Puerto Rico to go to veteran facilities than their counterparts in the U.S. mainland.
>
> The quality of care provided and the adequacy of the medical facilities in Puerto Rico, even though significantly improved over the years, are still substantially below that provided at the Veterans' Administration Medical Center in San Juan.
>
> Consequently, the VA Medical Center in San Juan has consistently received the largest number of applications for hospitalization in the entire VA system. It is ranked sixth in the Nation in number of staff visits and fourth in the number of medical visits....

H.R. 6350 would also extend for 3 years the authorization for the appropriation of such sums as may be necessary for the construction, alteration, or modernization of State veterans' homes. Current authority will expire on September 30, 1982.

The State veterans' homes provide hospital, nursing, and domiciliary care to veterans in State-operated facilities. The Veterans' Administration shares the cost of care with the States by paying part of the per diem cost for each veteran treated in State home facilities. The rate of per diem reimbursement to the States by the VA is dependent upon the level of care provided. A second method of cost sharing is a grant program through which the VA pays up to 65 percent of the cost of construction, alteration, or modernization of State extended care facilities.

Section-by-Section Analysis of the Reported Bill

Section 1 of the reported bill would provide that section 4107(e)(3) of title 38, United States Code, be redesignated as subclause "(A)" and a new subclause (B) added which would authorize the Administrator of Veterans' Affairs to provide additional pay for each hour worked by nurses performing services on a tour of duty, any part of which is within the period beginning midnight Friday and ending at midnight Saturday. The authority would provide for such pay on a nationwide, local, or other geographic basis as the Administrator considers necessary to recruit and retain adequate nursing staff. The rates of such additional pay would be established as a percentage of the nurse's hourly rate of basic pay but could not be greater than 25 percent of such hourly rate.

A new subsection "(h)" would be added to section 4107 of title 38 to provide that nurses employed at VA facilities who work two regularly scheduled 12-hour tours of duty within the period beginning midnight Friday to midnight Sunday of any weekend may be considered to have worked a full basic workweek.

Section 2 of the bill would amend section 601(4)(C)(v) of title 38 which authorizes the Administrator to provide hospital care and medical services to veterans in a State, territory, commonwealth, or possession of the United States not contiguous to the 48 contiguous States. Current law authorizes hospital care and medical services provided to veterans at the expense of the VA in government and private facilities consistent with the patient load or incidence of the provision of medical services for veterans hospitalized or treated within the 48 contiguous States. The Administrator, if necessary to prevent hardship, may waive the applicability of the restrictions to the Commonwealth of Puerto Rico and the Virgin Islands with respect to hospital loads and incidence of the provision of medical services until September 30, 1982. Section 2 would extend the Administrator's authority to waive these restrictions through September 30, 1983.

Section 3 of the bill would amend section 5033(a) of title 38 to extend for 3 additional years the authorization for appropriations to enable the Administrator to make grants to States for the construction, alteration, and modernization of State hospital, nursing home, and domiciliary facilities. Current authority will expire on September 30, 1982.

Oversight Findings

Under the rules of the Committee on Veterans' Affairs, the Subcommittee on Hospitals and Health Care is vested with legislative and oversight jurisdiction over the provision of hospital, domiciliary and nursing home care to eligible veterans. As a result of the hearing held on March 17, 1982, the Subcommittee concluded there is justification for the enactment of the reported bill, and on April 28, 1982, recommended the legislation to the full Committee.

The Committee has not received a report from the Committee on Government Operations in reference to the reported bill.

Vote on the Bill

With a quorum actually present, a motion to report the bill was unanimously adopted by voice vote by the full Committee on May 11, 1982.

Cost

According to the Congressional Budget Office, the enactment of the reported bill would result in an authorization level of $32.2 million in fiscal year 1983 with outlays totaling $12.7 million. The Committee concurs with the CBO cost estimate.

Budget Statement

As required by the Rules of the House, the following letter was received from the Congressional Budget Office concerning the cost of H.R. 6350:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., May 14, 1982.

Hon. G. V. Montgomery,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 6350, a bill to give the Administrator of the Veterans' Affairs the authority to provide VA nurses with premium pay for weekend work, and for other purposes.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

Raymond C. Scheppach
(For Alice M. Rivlin, *Director*).

Congressional Budget Office—Cost Estimate

1. Bill number: H.R. 6350.
2. Bill title: None.
3. Bill status: As ordered reported by the House Committee on Veterans' Affairs, May 11, 1982.

4. Bill purpose: To provide that Veterans' Administration (VA) nurses who work two 12-hour regularly scheduled tours of duty over a weekend shall be considered to have worked a full basic workweek, and for other purposes.

5. Cost estimate:

[By fiscal years, in millions of dollars]

Estimated authorization level:	
1983	32.2
1984	21.6
1985	24.3
1986	5.9
1987	6.0
Estimated outlays:	
1983	12.7
1984	13.7
1985	18.9
1986	24.4
1987	16.5

The cost of this bill would fall in budget function 700.

6. Basis for estimate: Authorizations for the bill are estimated as indicated below. The outlay estimates assume that the entire estimated authorizations are appropriated before each fiscal year.

Section 1: Paragraph (1) of section 1 would authorize the Administrator of VA to provide premium pay to nurses in VA medical facilities for Saturday tours of duty in any percentage of a nurse's hourly rate of base pay not in excess of 25 percent. Paragraph (2) would provide that nurses who work two 12-hour weekend shifts could be compensated as if they had worked a full 40-hour workweek. (This approach is commonly referred to as the Baylor Plan.) The Administrator would be given full flexibility to use either of these pay plans on a nationwide, local, or other geographic basis, as deemed necessary for the recruitment and retention of nurses. These provisions would take effect with the first pay period beginning on or after October 1, 1982.

[By fiscal years, in millions of dollars]

	1983	1984	1985	1986	1987
Saturday premium pay:					
Estimated authorization level	1.9	1.9	1.9	2.0	2.0
Estimated outlays	1.9	1.9	1.9	2.0	2.0
Baylor Plan:					
Estimated authorization level	0	1.3	2.6	3.9	4.0
Estimated outlays	0	1.3	2.6	3.9	4.0

This estimate assumes that Saturday premium pay would be implemented in 25 VA medical facilities in fiscal years 1983 through 1987. Further, it was assumed that use of the Baylor Plan would be limited, beginning with five facilities in 1984 and increasing to 15 facilities by 1987.

Fifteen VA facilities are located in communities in which the Baylor Plan is currently offered by private and municipal hospitals. VA is finding it difficult to compete with the Baylor Plan for nurses in these facilities. Nevertheless, Administrator Nimmo, in stating the

agency's views on H.R. 5847, an earlier Baylor Plan proposal, expressed opposition to the use of the Baylor Plan. Because of this opposition, the estimate above assumes that VA would first attempt to counter the competition of the Baylor Plan through the use of Saturday premium pay and would only resort to the Baylor Plan if Saturday premium pay failed to alleviate the recruitment and retention difficulties in these facilities. The above estimate assumes that Saturday premium pay would be used at the 25 percent maximum level in the 15 facilities competing with the Baylor Plan in fiscal year 1983. It was further assumed that Saturday premium pay would be offered in an additional 10 facilities at levels below 25 percent of basic pay.

Because it is not possible to determine with any precision the degree to which Saturday premium pay would alleviate the VA's shortage of nurses, it was assumed that the Baylor Plan would be instituted in 5 of these facilities in 1984 and in an additional 5 facilities in both 1985 and 1986. When fully operational in all 15 facilities, the Baylor Plan is estimated to require additions to the nursing staff of 264 full-time equivalent employees. The level of usage of Saturday premium pay is assumed to remain fairly constant throughout the 5-year period, although the facilities involved would change. As some of the original 25 facilities using Saturday premium pay switch to the Baylor Plan, it was assumed that new facilities would begin using Saturday premium pay.

The following methodological assumptions were made in connection with the cost estimates for section 1:

The total registered nursing staff was assumed to be 22,000 in all years.

Weekend hours were assumed to be staffed at 63 percent of the weekday level.

Night shifts were assumed to be staffed at 80 percent of the daytime level.

Based on VA data, the average salary level for a VA nurse was assumed to the $22,073 per annum. Since the salaries of VA medical personnel are established in title 38, U.S.C., nurses' salaries were not inflated for federal cost-of-living pay raises but were increased by 1.5 percent a year for merit pay increases.

Overtime was assumed to be paid for 10 percent of weekend hours and 3 percent of Monday through Friday hours.

Section 2: This section would extend for 1 year the authority of VA to provide health care by contract in the Commonwealth of Puerto Rico and the Virgin Islands.

[By fiscal years, in millions of dollars]

Estimated authorization level:	
1983	13.2
1984	0
1985	0
1986	0
1987	0
Estimated outlays:	
1983	10.6
1984	2.6
1985	0
1986	0
1987	0

The above figures represent the cost estimated by VA of providing contract health care in Puerto Rico and the Virgin Islands in 1983. These funds are included in VA's fiscal year 1983 appropriation request.

Section 3: This section would extend through fiscal year 1985 the authorization of such sums as may be necessary to be appropriated for grants to States for the construction of State extended care facilities, where such facilities are needed to provide adequate nursing home care to veterans residing in the State.

[By fiscal years, in millions of dollars]

Estimated authorization level:	
1983	17.1
1984	18.4
1985	19.8
1986	0
1987	0
Estimated outlays:	
1983	.2
1984	7.9
1985	14.4
1986	18.5
1987	10.5

The authorization levels anticipated for fiscal years 1983–1985 were estimated by inflating the amount appropriated for fiscal year 1982 by CBO's medical care facility construction cost index. These amounts were assumed to outlay according to historical spending patterns.

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: K. W. Shepherd (226–2820).
10. Estimate approved by:

C. G. Nuckols
(For James L. Blum,
Assistant Director for Budget Analysis).

Inflationary Impact Statement

The enactment of the reported bill will have no inflationary impact.

Agency Views

The Committee received the following views of the Veterans' Administration on legislation similar to the reported bill:

Office of the Administrator
of Veterans' Affairs,
Washington, D.C., March 17, 1982.

Hon. Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

Dear Mr. Speaker: There is transmitted herewith a draft bill "To amend title 38, United States Code, to extend the authority for the program of grants to States for State home facilities, and for other purposes." We request that it be introduced in the 97th Congress and promptly enacted.

This legislation to be entitled "State Veterans' Home Amendments of 1982" is vital for the continuation of the successful State home program. The long-standing State home program provides grants and per diem reimbursements to State operated homes which furnish hospital, domiciliary, and nursing home care for eligible veterans. This bill would reauthorize the provision of construction grants for 4 more years and make a number of changes to facilitate the sharing of VA medical services and information with State homes. The bill also makes certain clarifying and technical amendments affecting the State home program and the pilot program on drug and alcohol dependence or abuse disabilities.

A key provision of the draft measure would amend subsection 5033 (a) of title 38, United States Code, to extend the program of grants to States for the construction, remodeling, or renovation of State home facilities for 4 more fiscal years through fiscal year 1986, at "such sums as may be necessary" annually to carry out the program. The State home program has long been recognized as a high-quality, cost-efficient alternative to the provision of extended care in VA facilities. Current VA plans anticipate continued growth in the State home program to help meet the future demand for extended health care by the aging veteran population. The program began on August 27, 1888, with an act to provide aid to State or territorial homes for veterans. In 1939, the law was amended to extend assistance to hospital care provided in State homes. In 1964, Public Law 88–450 authorized Federal assistance to State homes providing nursing home care. Moreover, separate per diem payments to States for veterans cared for in State homes were established for three levels of care: domiciliary, nursing home, and hospital care. From fiscal year 1966 through fiscal year 1981, the VA has obligated funds in excess of $108 million to 32 States for State home construction grants.

It is clear that much needs to be done to prepare for the increasing number of elderly veterans who will require extended care prior to the end of this decade. About a threefold increase in the number of such veterans is foreseen over the next 15 years.

The Administration is requesting $18 million for the State home program for fiscal year 1983. Because it is impossible to predict what funds will be appropriated for the program in later years, we are unable to project the cost to the VA of implementing the program through fiscal year 1986. The actual cost will depend on the level of appropriations funded by Congress.

The draft bill would also amend subsection 5053(a) of title 38, United States Code, to permit the VA to share specialized medical resources with State veterans' homes. Section 5053 permits the VA to make arrangements by contract or other form of agreement to share the use of specialized medical resources with hospitals, institutions having hospital facilities, medical schools, clinics, and certain other medical installations. This section, however, does not clearly authorize the VA to share such resources with most State homes. State veterans' homes (nursing homes, domiciliaries, and hospitals) usually are not equipped with specialized diagnostic and treatment services. Currently, when such resources are required, they are obtained from another institution, or, more likely, the veteran is transferred to a VA facility at an increased cost to the VA. Amending subsection

5053(a) to allow State veterans' homes to share specialized medical resources with the VA can help assure that these homes provide quality care to veterans. In addition, under such agreements, State homes would be charged the full cost of the medical resources provided to them as required by subsection 5053(b) of title 38, United States Code. This provision would not result in additional costs for the VA.

Subsection 4(c) would amend subsection 5054(a) of title 38, United States Code, to permit the VA to share medical information and techniques with State veterans' homes. Section 5054 authorizes the VA to enter into agreements with certain types of facilities and medical professionals which will permit the free exchange of medical information and techniques. State homes are not now among the types of facilities mentioned in section 5054. By amending subsection 5053(a) to authorize sharing medical information with State homes, State homes could gain access to advanced medical information and techniques available in VA medical centers.

The bill would also amend section 643 of title 38, United States Code, to clarify the VA's authority to pay per diem rates to a State for all veterans receiving care in a State home and not just for veterans "of any war." Section 641 of title 38, United States Code, authorizes the Administrator to reimburse a State at per diem rates for veterans receiving care at a State home if the veterans are eligible for care in a VA facility. Section 643 of that title creates ambiguity, however, in that it retains a reference to a prior limitation on eligibility, the requirement of wartime service. This requirement was eliminated from section 641 by Public Law 94–417 enacted on September 21, 1976. The reference to wartime service in section 643 was overlooked at that time. This amendment would remedy that technical error. No additional cost would arise from enacting this amendment.

The draft bill would also extend by 1 year the operating period to be taken into consideration when preparing our report on the drug and alcohol dependence contract program. Subsection 104(a) of Public Law 96–22, codified in section 620A of title 38, United States Code, authorized the VA to conduct a broadened treatment and rehabilitation program on a 5-year pilot basis for veterans suffering from alcohol or drug dependence. This section permits the VA to contract for care, treatment, and rehabilitative services for veterans with those disabilities in many types of non-VA facilities: halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities. The Administrator is also required to report to the Veterans' Affairs Committees of the Senate and House of Representatives by March 31, 1983, on the findings and recommendations regarding the operation of the pilot program through September 30, 1982. This report will only analyze the first 2 fiscal years of the 5 fiscal years authorized for the pilot program. Thus, the reporting date of March 31, 1983, will prevent consideration in the report of operational data from the remainder of the pilot period. In addition, the first fiscal year of the pilot program to be reported on will not involve contracts with the full range of facilities permitted by section 104. In fiscal year 1981, the VA contracted only with community-operated halfway houses which provide residential care for several months. During fiscal year 1982, however, the VA plans to contract with a wider range of facilities including

therapeutic communities and outpatient group and individual counseling facilities. By permitting the VA to analyze information gathered during 3 fiscal years instead of 2 in its report to the congressional committees, the report's findings and recommendations would be based on longer and more complete experience. Enactment of this section would not involve any additional cost to the VA because it does not extend the operating or reporting period beyond the originally authorized life of the pilot program.

We are advised by the Office of Management and Budget that enactment of this draft bill would be in accord with the program of the President.

Sincerely,

ROBERT P. NIMMO,
Administrator.

OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., April 29, 1982.

Hon. G. V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR SONNY: I am pleased to respond to your request for the views of the Veterans Administration on H.R. 5847, 97th Congress, a bill "To amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide that Veterans' Administration nurses who work two 12-hour regularly scheduled tours of duty over a weekend shall be considered to have worked a full basic workweek."

This bill would, in effect, authorize the Administrator to institute the so-called "Baylor Plan" at VA medical facilities. Because the Veterans' Administration's competitive position with regard to recruitment and retention of registered nurses is improving and because I believe a more flexible approach to irregular tours of duty than this program would provide is necessary to achieve favorable impact on such recruitment and retention, the VA opposes the enactment of the bill.

Under section 112 of the VA Health-Care Amendments of 1980, Public Law 96–330, which is codified at 38 U.S.C. § 4107(g), the Administrator may, in order to enhance the recruitment and retention of registered nurses, provide additional pay in an amount competitive with, though not exceeding, that which nurses at non-VA facilities in the same geographic areas receive. To date this authority has been implemented to pay above minimum salary step-rates in one or more grade levels at 65 facilities. At an additional 22 facilities special salary ranges at one or more grade levels which exceed the normal title 38 pay ranges have been implemented. Although the Department of Medicine and Surgery (DM&S) continues to refine its pay setting practices so that VA facilities will be able to compete with community practices, the VA has already become more attractive as an employer. At facilities where recruitment and retention problems were simply a function of the VA pay package not being competitive, adjustments in pay have been made and the situation has stabilized or improved.

At facilities where the scope of the problem extended to nonmonetary areas, relating to the quality of both working and nonworking

life, DM&S has been implementing, under the authority of section 4107 (e) (5) of title 38, what is essentially a compressed workweek. Preliminary reports from VA facilities where modified work schedules under section 4107(e) (5) have already been initiated indicate that they are having a positive impact on morale and efficiency, as well as reducing overtime costs. Similarly, VA's experience in establishing experimental compressed work schedules under the authority of Public Law 95–390 indicates that compressed workweeks have significant potential for mitigating recruitment and retention problems with nurses. As DM&S accumulates experience with compressed workweeks, the VA will be better able to judge whether additional authority is needed to improve recruitment and to keep nursing staff at adequate levels.

It is expected that recruitment and retention figures will continue to improve as the special salary authority of section 4107(g) and the compressed workweek authority of section 4107(e) (5) have their full effect on the system. The implementation of both authorities will be among the subjects of the nursing recruitment and retention study and reports called for under section 118 of Public Law 96–330.

The VA estimates the cost of implementing the program authorized by this bill would be $15,004,428 for the first year, $15,154,472 for year two, $15,306,016 for year three, $15,459,076 for year four, and $15,613,-666 for year five. These estimates do not include any savings which might accrue from reduction in Sunday and nighttime premium pay.

We in the VA recognize the need to meet competition in the areas of alternate work schedules and compressed workweeks. Current authorities may, however, prove adequate to meet the recruitment and retention needs of the VA. Clearly, the need for the Baylor Plan as proposed in this bill has not been established. We oppose the bill.

The Office of Managament and Budget advises that there is no objection to the submission of this report to the Congress from the standpoint of the program of the President.

Sincerely,

ROBERT P. NIMMO,
Administrator.

OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., May 3, 1982.

Hon. G. V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to respond to your request for the views of the Veterans' Administration on H.R. 5846, 97th Congress, a bill "To amend title 38, United States Code, to extend for 1 year the authority for the provision of Veterans' Administration health care by contract in the Commonwealth of Puerto Rico and in the Virgin Islands."

H.R. 5846 would extend for 1 year the VA's authority to provide contract hospital and outpatient care to veterans in the United States territories and possessions including Puerto Rico and the Virgin Islands. We favor the enactment of this measure.

Currently, the VA is authorized to furnish hospital care, or medical services that obviate the need for hospital care, to veterans in Puerto Rico and the Virgin Islands. This authorization is subject to a requirement that the provision of medical services to veterans in these areas shall be consistent with the patient load or the incidence of the provision of medical services for veterans hospitalized or treated by the VA in the 48 contiguous United States. The VA can waive this "consistency" requirement with respect to Puerto Rico and the Virgin Islands in order to prevent hardship.

Public Law 95–520 required that the VA conduct and submit to Congress and the President a report assessing the health care needs of veterans in Puerto Rico and the Virgin Islands with recommendations on how these needs should be addressed. The VA submitted this report to Congress on March 10, 1981. In assessing the health care needs of veterans in Puerto Rico and the Virgin Islands, our report identified a series of problems unique to that locale. These included: (1) low quantity and quality of non-VA psychiatric care; (2) inadequate ambulatory care facilities; (3) near absence of nursing home beds; and (4) inaccessibility of health care outside the VA.

It was also found that, because of those unique problems and because the ratio of service-connected to nonservice-connected veterans was higher in Puerto Rico and the Virgin Islands than in the 48 contiguous States, the rate of veteran utilization of VA care in those islands was greater. Our report ultimately did not make any final recommendation, but outlined instead a series of options for the Congress to consider. These specific options reflected the different means by which the VA might provide veterans residing on these islands with hospital, nursing home, and outpatient care.

The VA's authority to provide contract hospital and outpatient care to veterans in these areas expires on September 30, 1982. We recognize that Congress may not have the time to evaluate this entire issue, including our report and recommendations. For these reasons, we consider it to be prudent that this authority be extended for an additional year rather than risk either the expiration of this authority without the provision of an alternative means of medical care for these veterans or the hasty enactment of legislation which might not be the most appropriate. We thus support this bill.

Extension of this authority until September 30, 1983, will result in an estimated cost to the VA of $8.87 million.

We are advised by the Office of Management and Budget that there is no objection to the submission of this report and that enactment of H.R. 5846 would be in accord with the program of the President.

Sincerely,

ROBERT P. NIMMO,
Administrator.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

TITLE 38, UNITED STATES CODE

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PART II—GENERAL BENEFITS

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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Subchapter I—General

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§ 601. Definitions

For the purposes of this chapter—

(1) The term "disability" means a disease, injury, or other physical or mental defect.

(2) The term "veteran of any war" includes any veteran of the Indian Wars, or any veteran awarded the Medal of Honor. (Amended P.L. 88-481.)

(3) The term "period of war" includes each of the Indian Wars.

(4) The term "Veterans' Administration facilities" means—

(A) facilities over which the Administrator has direct jurisdiction;

(B) Government facilities for which the Administrator contracts; and

(C) private facilities for which the Administrator contracts when facilities described in clause (A) or (B) of this paragraph are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or services required in order to provide (i) hospital care or medical services to a veteran for the treatment of a service-connected disability or a disability for which a veteran was discharged or released from the active military, naval, or air service; (ii) medical services for the treatment of any disability of a veteran described in clause (1)(B) or (2) of the first sentence, or in the third sentence, of section 612(f) of this title or of a veteran described in section 612(g) of this title if the Administrator has determined, based

on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in facilities described in clauses (A) and (B) of this paragraph; (iii) hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving medical services in a facility described in clause (A) or (B) of this paragraph until such time as the veteran can be safely transferred to any such facility; (iv) hospital care for women veterans; (v) hospital care, or medical services that will obviate the need for hospital admission, for veterans in a State not contiguous to the forty-eight contiguous States, except that the annually determined hospital patient load and incidence of the provision of medical services to veterans hospitalized or treated at the expense of the Veterans' Administration in Government and private facilities in each such noncontiguous State shall be consistent with the patient load or incidence of the provision of medical services for veterans hospitalized or treated by the Veterans' Administration within the forty-eight contiguous States, but the authority of the Administrator under this subclause (except with respect to Alaska and Hawaii) shall expire on September 30, [1982] *1983*, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico and to the Virgin Islands of the restrictions in this subclause with respect to hospital patient loads and incidence of provision of medical services; or (vi) diagnostic services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, the provision of medical services at independent Veterans' Administration outpatient clinics to obviate the need for hospital admission.

In the case of any veteran for whom the Administrator contracts to provide treatment in a private facility pursuant to the provisions of this paragraph, the Administrator shall periodically review the necessity for continuing such contractual arrangement pursuant to such provision.

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PART V—BOARDS AND DEPARTMENTS

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CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

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Subchapter I—Organization; General

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§ 4107. Grades and pay scales

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(e)(1) In addition to the rate of basic pay provided for nurses in subsection (b)(1) of this section, a nurse shall receive additional pay as provided by paragraphs (2) through (8) of this subsection.

(2) A nurse performing service on a tour of duty, any part of which is within the period commencing at 6 postmeridian and ending at 6 antemeridian, shall receive additional pay for each hour of service on such tour at a rate equal to 10 per centum of the nurses' hourly rate of basic pay, if at least four hours of such tour fall between 6 postmeridian and 6 antemeridian. When less than four hours of such tour fall between 6 postmeridian and 6 antemeridian, the nurse shall be paid the differential for each hour of service performed between those hours.

(3)(*A*) A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight Saturday and ending at midnight Sunday, shall receive additional pay for each hour of service on such tour at a rate equal to 25 per centum of such nurse's hourly rate of basic pay.

(B) A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight Friday and ending at midnight Saturday, may receive additional pay for each hour of service on such tour. The Administrator may provide for such pay on a nationwide, local, or other geographic basis and may set a rate for such pay within any geographic area at such level as the Administrator considers necessary within that area to recruit and retain an adequate nursing staff. Rates for such pay shall be established as a percentage of a nurse's hourly rate of basic pay and may not be established at a rate greater than 25 percent of such hourly rate.

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(h)(1) In order to achieve and maintain adequate nurse staffing levels at any Veterans' Administration health-care facility, the Administrator may provide that a nurse employed at such facility who was appointed under section 4104 of this title and who works two regularly scheduled 12-hour tours of duty within the period beginning at midnight Friday and ending at midnight Sunday of any weekend shall be considered for all purposes (except computation of full-time equivalent employees for determining personnel ceilings) to have worked a full basic workweek.

(2)(A) A nurse who works a basic workweek as described in paragraph (1) of this subsection is entitled to basic pay as prescribed in subparagraphs (B) and (C) of this paragraph.

(B) The hourly rate of basic pay for such a nurse for service performed between midnight Friday and midnight Sunday of any weekend as part of a regularly scheduled 12-hour tour of duty shall be derived by dividing the nurse's annual rate of basic pay by one thousand two hundred and forty-eight.

(C) Such a nurse is not entitled to overtime pay under subsection (e)(5) of this section for any period of service performed in excess of the regularly scheduled 24-hour basic workweek described in paragraph (1) of this subsection unless the total officially ordered or approved service performed during an administrative workweek is in excess of 52 hours, is in excess of eight hours on a day not included in the nurse's regularly scheduled 24-hour basic workweek, or is in excess of 12 hours on a day included in the nurse's regularly scheduled 24-hour basic workweek.

(D) Except as provided under subparagraph (C) of this paragraph, such nurse is not entitled to additional pay under subsection (e) of this section for any period included in such nurse's regularly scheduled 24-hour basic workweek.

(E) A nurse who is absent on approved sick leave or annual leave during a regularly scheduled 24-hour basic workweek described in paragraph (1) of this subsection shall be charged for such leave at a rate of five hours of leave for three hours of absence.

(3) The Administrator shall prescribe regulations for the administration of this section.

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PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

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§ 5033. Authorization of appropriations

(a) There is hereby authorized to be appropriated [$15,000,000 for the fiscal year ending September 30, 1978, a like sum for each of the two succeeding fiscal years, and such sums as may be necessary for the fiscal years ending September 30, 1981, and September 30, 1982.] *such sums as may be necessary for fiscal year 1982 and for the three succeeding fiscal years.* Sums appropriated pursuant to this section shall be used for making grants to States which have submitted, and have had approved by the Administrator, applications for carrying out the purposes and meeting the requirements of this subchapter.

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